

ENTERED

October 05, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**VICENTE MENDOZA, JR.,
"Plaintiff",

v.

ANDREW SAUL, COMMISSIONER,
SOCIAL SECURITY
ADMINISTRATION,
"Defendant".§
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, Civil Action No. 1:20-cv-00104

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Before the Court are these pleadings: Plaintiff's "Complaint" (Dkt. No. 1), Plaintiff's "Motion for Summary Judgment" ("Plaintiff's MSJ") (Dkt. Nos. 11-12), Defendant's "Cross-Motion for Summary Judgment" ("Defendant's MSJ") (Dkt. No. 13), Defendant's "Response Brief" (Dkt. No. 14), and Plaintiff's "Reply" (Dkt. No. 15).

The Magistrate Judge issued a "Report and Recommendation" ("R&R") (Dkt. No. 16). The R&R recommends this Court deny Plaintiff's MSJ, grant Defendant's MSJ, affirm Defendant's final decision in Plaintiff's underlying administrative action, and direct the District Court Clerk to close the case. Plaintiff filed three timely objections to the R&R. Dkt. No. 17. "The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to." FED. R. CIV. P. 72(b)(3).

Plaintiff argues the Administrative Law Judge ("ALJ") failed to properly weigh the opinions of Dr. Sanchez and Dr. Heffernan and failed to incorporate mental limitations into Plaintiff's residual functioning capacity ("RFC"). *See* Dkt. No. 17. These objections mirror Plaintiff's MSJ arguments, see Dkt. Nos. 11-12, 15, and do not enter into the record new evidence or argument for this Court's consideration.

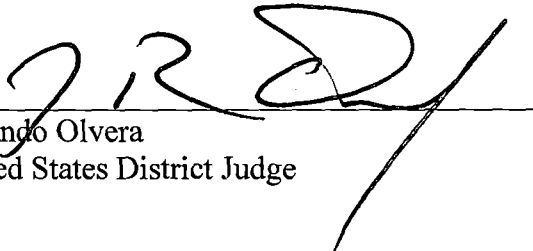
"Judicial review of the Commissioner's findings is limited to two inquiries: (1) whether the decision comports with the proper legal standards; and (2) whether substantial evidence in the record supports the decision. *Morgan v. Colvin*, 803 F.3d 773, 776 (5th Cir. 2015); *Copeland*, 771 F.3d at 923." Dkt. No. 16 at 9. Upon reviewing de novo the R&R, Plaintiff's objections, and the record, this Court finds the ALJ's ultimate decision based on proper legal standards. Substantial

evidence in the record supports the ALJ's evaluation of Dr. Sanchez's and Dr. Heffernan's medical opinions and the weight given to those opinions.

This Court also finds the ALJ comprehensively evaluated and properly considered Plaintiff's RFC. As the Magistrate Judge correctly observed, "consideration does not require incorporation." Dkt. No. 16 at 15. The mere existence of contrary evidence does not provide this Court with authority to nullify an ALJ's decision when that decision is "supported by substantial evidence." *Bailey v. Saul*, No. 20-60790, 2021 WL 1748487, at *2 (5th Cir. May 3, 2021).

For the reasons above, the R&R (Dkt. No. 16) is **ADOPTED**. Plaintiff's objections (Dkt. No. 17) are **OVERRULED**. Defendant's MSJ (Dkt. No. 13) is **GRANTED**. Plaintiff's MSJ (Dkt. Nos. 11-12) is **DENIED**. Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED WITH PREJUDICE**. The District Court Clerk is **ORDERED** to close the case.

Signed on this 5th day of October, 2021.



Rolando Olvera
United States District Judge